

1 THE HONORABLE JOHN C. COUGHENOUR
2
3
4
5
6

7 UNITED STATES DISTRICT COURT
8 WESTERN DISTRICT OF WASHINGTON
9 AT SEATTLE

10 UNITED STATES OF AMERICA,

11 Plaintiff,

12 v.

13 GREGORY TIFT,

14 Defendant.

CASE NO. CR20-0168-JCC

ORDER

15 This matter comes before the Court on Defendant Gregory Tift's *pro se* motion to compel
16 the Government to permit a defense expert to independently test drug evidence (Dkt. No. 83).
17 Having thoroughly considered the motion and the relevant record, and for good cause shown, the
18 Court hereby GRANTS the motion for the reasons explained below.

19 In September 2020, Mr. Tift was indicted for conspiracy to distribute controlled substances
20 and possession of controlled substances with intent to distribute. (Dkt. No. 3.) Following a
21 conferral with the Government, Mr. Tift now moves for the release of physical evidence for
22 independent examination by a defense expert. (Dkt. No. 83 at 1.)

23 The Government must allow the defense to inspect tangible items "if the item is within
24 the [G]overnment's possession, custody, or control" and either "the item is material to preparing
25 the defense," "the [G]overnment intends to use the item in its case-in-chief," or "the item was
26 obtained from or belongs to the defendant." Fed. R. Crim. P. 16(a)(1)(e). If the Government does

1 not provide such opportunity, a court may “order that party to permit the discovery or
2 inspection. . . and prescribe other just terms and conditions.” Fed. R. Crim. P. 16(d)(2).

3 The motion is in keeping with the purpose of Rule 16 and the Government does not
4 oppose it. (Dkt. No. 83 at 2.) Accordingly, Defendant’s motion for outside testing of the
5 evidence (Dkt. No. 83) is GRANTED, subject to the following conditions:

- 6 1. The government is ORDERED to supply Mr. Tift’s defense expert with sufficient
7 samples of the alleged drugs to be introduced as evidence to allow a qualified
8 independent expert to perform an analysis.
- 9 2. The examination and testing of the alleged drug samples shall take place in the
10 presence of a law enforcement officer/agent designated by the United States Attorney
11 for the purpose of preserving the chain of custody and the admissibility of the
12 evidence. Any residue remaining shall be given to the designated law enforcement
13 officer/agent in order to ensure recovery by the Government. *See United States v.*
14 *Pollock*, 402 F. Supp. 1310, 1312 (D. Mass. 1975).
- 15 3. Any expert selected by Mr. Tift to conduct the testing must be authorized under the
16 laws of the United States to possess controlled substances. In order to preserve the
17 current trial date of September 12, 2022, Mr. Tift shall have all testing completed as
18 soon as is reasonably practicable, but no later than August 19, 2022.

19 DATED this 8th day of April 2022.

20
21
22
23
24
25
26



John C. Coughenour
UNITED STATES DISTRICT JUDGE